

AMENDED IN SENATE JULY 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1177**

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**Introduced by Assembly Members Gomez, Burke, and Low**

February 27, 2015

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An act to add, repeal, and add Section 1204.2 of the Health and Safety Code, relating to primary care clinics.

LEGISLATIVE COUNSEL'S DIGEST

AB 1177, as amended, Gomez. Primary care clinics: written transfer agreements.

Existing regulations require primary care clinics to maintain a written transfer agreement with one or more nearby hospitals and other facilities as appropriate to meet medical emergencies. Existing law authorizes certain clinics to request that the State Department of Public Health waive this requirement.

This bill would provide that a *licensed* primary care clinic ~~that is licensed~~ is not required to enter into a written transfer agreement pursuant to those ~~provisions~~. *provisions as a condition of licensure, except as provided for a primary care clinic where anesthesia is used in compliance with the community standard of practice, in doses that when administered have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes. The bill would not require a primary care clinic to have a hospital transfer agreement with a nearby hospital if the clinic provides analgesia and sedation services consisting only of local anesthesia, peripheral nerve blocks, a combination thereof, or conscious sedation, as defined.* The bill would require the State Department of Public Health to repeal its regulations to conform to these changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1204.2 is added to the Health and Safety  
2     Code, to read:  
3     1204.2. (a) *(1) Notwithstanding any other provision of law,*  
4     including, but not limited to, Section 75047 of Title 22 of the  
5     California Code of Regulations, *and except as provided in*  
6     *paragraph (2), a primary care clinic licensed pursuant to described*  
7     *in subdivision (a) of Section 1204 that is licensed pursuant to this*  
8     *chapter shall not be required to enter into a written transfer*  
9     *agreement with a nearby hospital as a condition of licensure.*  
10    (2) (A) *A primary care clinic where anesthesia is used in*  
11    *compliance with the community standard of practice, in doses that*  
12    *when administered have the probability of placing a patient at risk*  
13    *for loss of the patient's life-preserving protective reflexes, shall*  
14    *do one of the following:*  
15    (i) *Have a written transfer agreement with a local accredited*  
16    *or licensed general acute care hospital.*  
17    (ii) *Permit procedures requiring the doses of anesthesia*  
18    *described in this subparagraph to be performed only by a licensee*  
19    *who has admitting privileges at a local accredited or licensed*  
20    *general acute care hospital, except that a licensee who may be*  
21    *precluded from having admitting privileges due to his or her*  
22    *professional classification or other administrative limitations shall*  
23    *have a written transfer agreement with a licensee who has*  
24    *admitting privileges at a local accredited or licensed general acute*  
25    *care hospital.*  
26    (iii) *Submit for approval from an accrediting agency a detailed*  
27    *procedural plan for handling medical emergencies that shall be*  
28    *reviewed at the time of accreditation. A reasonable plan shall not*  
29    *be disapproved by the accrediting agency.*  
30    (B) *A primary care clinic described in subparagraph (A) that*  
31    *cannot meet any of the criteria listed in clauses (i) to (iii), inclusive,*  
32    *of subparagraph (A) is exempt from this paragraph if that clinic*  
33    *submits to the department any competent evidence that*  
34    *demonstrates to the department that at least one nearby hospital*

1 *or other inpatient health facility has elected not to enter into a*  
2 *transfer agreement with that primary care clinic.*

3 *(C) For the purposes of this section, the following definitions*  
4 *shall apply:*

5 *(i) "Competent evidence" means evidence that is relevant and*  
6 *of such a nature that it can be received by a court of law, and*  
7 *includes, but is not limited to, an affidavit of someone with the*  
8 *legal authority to bind the clinic operation.*

9 *(ii) "Nearby hospital or other inpatient health facility" means*  
10 *a hospital or other inpatient health facility that the clinic*  
11 *corporation has determined is reasonably accessibly by road travel*  
12 *for purposes of providing patients with medical emergency care.*

13 *(b) This section does not require a primary care clinic to have*  
14 *a hospital transfer agreement with a nearby hospital, if that clinic*  
15 *provides only the following types of analgesia and sedation*  
16 *services:*

17 *(1) Local anesthesia.*

18 *(2) Peripheral nerve blocks.*

19 *(3) A combination of both local anesthesia and peripheral nerve*  
20 *blocks.*

21 *(4) Conscious sedation, as defined in Section 1647.1 of the*  
22 *Business and Professions Code.*

23 ~~*(b)*~~

24 *(c) The State Department of Public Health shall, no later than*  
25 *July 1, 2016, repeal Section 75047 of Chapter 7 of Division 5 of*  
26 *Title 22 of the California Code of Regulations.*

27 ~~*(e)*~~

28 *(d) This section shall remain in effect only until January 1, 2018,*  
29 *and as of that date is repealed, unless a later enacted statute, that*  
30 *is enacted before January 1, 2018, deletes or extends that date.*

31 SEC. 2. Section 1204.2 is added to the Health and Safety Code,  
32 to read:

33 1204.2. (a) (1) ~~Notwithstanding any other provision of law,~~  
34 ~~and except as provided in paragraph (2),~~ a primary care clinic  
35 ~~licensed pursuant to described in subdivision (a) of Section 1204~~  
36 ~~that is licensed pursuant to this chapter~~ shall not be required to  
37 enter into a written transfer agreement with a nearby hospital as a  
38 condition of licensure.

39 (2) (A) *A primary care clinic where anesthesia is used in*  
40 *compliance with the community standard of practice, in doses that*

1 *when administered have the probability of placing a patient at risk*  
2 *for loss of the patient's life-preserving protective reflexes, shall*  
3 *do one of the following:*

4 *(i) Have a written transfer agreement with a local accredited*  
5 *or licensed acute general care hospital.*

6 *(ii) Permit procedures requiring the doses of anesthesia*  
7 *described in this subparagraph to be performed only by a licensee*  
8 *who has admitting privileges at a local accredited or licensed*  
9 *general acute care hospital, except that a licensee who may be*  
10 *precluded from having admitting privileges due to his or her*  
11 *professional classification or other administrative limitations shall*  
12 *have a written transfer agreement with a licensee who has*  
13 *admitting privileges at a local accredited or licensed acute care*  
14 *hospital.*

15 *(iii) Submit for approval from an accrediting agency a detailed*  
16 *procedural plan for handling medical emergencies that shall be*  
17 *reviewed at the time of accreditation. A reasonable plan shall not*  
18 *be disapproved by the accrediting agency.*

19 *(B) A primary care clinic described in subparagraph (A) that*  
20 *cannot meet any of the criteria listed in clauses (i) to (iii), inclusive,*  
21 *of subparagraph (A) shall be exempt from this paragraph if it*  
22 *submits to the department any competent evidence that*  
23 *demonstrates to the department that at least one nearby hospital*  
24 *or other inpatient health facility has elected to not enter into a*  
25 *transfer agreement with that primary care clinic.*

26 *(C) For the purposes of this section, the following definitions*  
27 *shall apply:*

28 *(i) "Competent evidence" means evidence that is relevant and*  
29 *of such a nature that it can be received by a court of law, and*  
30 *includes, but is not limited to, an affidavit of someone with the*  
31 *legal authority to bind the clinic operation.*

32 *(ii) "Nearby hospital or other inpatient health facility" means*  
33 *a hospital or other inpatient health facility that the clinic*  
34 *corporation has determined is reasonably accessibly by road travel*  
35 *for purposes of providing patients with medical emergency care.*

36 *(b) This section does not require a primary care clinic to have*  
37 *a hospital transfer agreement with a nearby hospital, if that clinic*  
38 *provides only the following types of analgesia and sedation*  
39 *services:*

40 *(1) Local anesthesia.*

- 1     (2) *Peripheral nerve blocks.*
- 2     (3) *A combination of both local anesthesia and peripheral nerve*
- 3     *blocks.*
- 4     (4) *Conscious sedation, as defined in Section 1647.1 of the*
- 5     *Business and Professions Code.*
- 6     ~~(b)~~
- 7     (c) This section shall become operative on January 1, 2018.

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